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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,845	02/11/2004	Ronald R. Woller	8808.1-190	3025
23506 7590 09/11/2008 GARDNER GROFF GREENWALD & VILLANUEVA, PC 2018 POWERS FERRY ROAD SUITE 800 ATLANTA, GA 30339				
EXAMINER				
MITCHELL, KATHERINE W				
ART UNIT		PAPER NUMBER		
3634				
MAIL DATE		DELIVERY MODE		
09/11/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Applicant has submitted an amendment on 8/27/2008 at 18:17:40 amending the objected-to claims in this case to include the limitations of the base claim and any and all intervening claims. However, this amendment was not limited to just amending the objected-to claims, 10 and 16, in this case to include the limitations of the base claim and any and all intervening claims. Instead, claim 10 was broadened. The objected-to claim required the clamping portions of each of the pair of footholds to actually be attached to the support arms, but the amended claim requires merely the capability, i.e., the pair of footholds each comprise ... a clamping portion for attaching (not are attached) to the support arms.

Per page 10 of the BPAI Decision of 6/27/2007,

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). See 37 C.F.R. § 1.136(a)(1)(iv) (2006)

Per 37 CFR 1.197, the period under 37 CFR 1.304 for seeking court review of the decision by the Board of Patent Appeals and Interferences rendered 6/27/2008 has expired. The date of termination of proceedings on an application is the date on which the appeal is dismissed or the date on which the time for appeal to the U.S. Court of Appeals for the Federal Circuit or review by civil action (§ 1.304) expires in the absence of further appeal or review.

Situations which can arise will involve one or more of the following circumstances:

I. NO CLAIMS STAND ALLOWED

The proceedings in an application or ex parte reexamination proceeding are terminated as of the date of the expiration of the time for filing court action. The application is no longer considered as pending. It is to be stamped abandoned and sent to abandoned files. In an ex parte reexamination proceeding, a reexamination certificate should be issued under 37 CFR 1.570.

Claims indicated as allowable prior to appeal except for their dependency from rejected claims will be treated as if they were rejected. The following examples illustrate the appropriate approach to be taken by the examiner in various situations:

(A) If claims 1-2 are pending, and the Board affirms a rejection of claim 1 and claim 2 was objected to prior to appeal as being allowable except for its dependency from claim 1, the examiner should hold the application abandoned. Since the amendment filed 8/27/08 does not place the application in condition for allowance by exclusively amending the objected-to claims in independent form, but rather broadens the scope of a claim after the proceedings in the application were terminated, the amendment is not entered. As the time period is non-extendable, and no claims are allowable, the case is considered abandoned.

Conclusion

Any inquiry concerning this communication should be directed to KATHERINE W. MITCHELL at telephone number (571)272-7069.

/KATHERINE W MITCHELL/
Supervisory Patent Examiner, Art Unit 3634

KATHERINE W MITCHELL
SPE
Art Unit 3634